

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
LAFAYETTE DIVISION

SHEMIAH HOWARD,)	
)	
Plaintiff,)	
)	CASE NO.: 4:21-cv-00017
v.)	
)	
MARCOS A. JIMENEZ SANTANA and)	
NEW PRIME, INC.)	
)	
Defendants.)	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1332, 1441, and 1446, Defendants MARCOS A. JIMENEZ SANTANA and NEW PRIME, INC., by counsel, hereby file this Notice of Removal to remove the above-entitled action to this Court based upon the following supporting grounds. Defendants, appearing solely for the purpose of this removal, and for no other purpose, and preserving all other defenses available to them, state as follows:

VENUE

1. Removal to the Northern District of Indiana, Lafayette Division, is appropriate pursuant to 28 U.S.C. § 1441(a), because the Northern District of Indiana, Lafayette Division, embraces the County of Warren, where the action was pending prior to the filing of this Notice of Removal.

REMOVAL IS TIMELY

2. On January 28, 2020, undersigned counsel accepted service on behalf of both Defendants.
3. Therefore, removal is timely under 28 U.S.C. §1446(b).

STATE COURT PROCEEDINGS

4. On or about January 18, 2021, Plaintiff filed her Complaint, Appearance, and Subpoena/Summons to both Defendants in the Warren County Circuit Court of the State of Indiana under Cause No: 86C01-2101-CT-000016.

5. On or about February 2, 2021, Plaintiff filed her First Amended Complaint for Damages in the Warren County Circuit Court.

6. On or about February 5, 2021, Plaintiff filed a return of service on New Prime, Inc.

7. On or about February 12, 2021, Plaintiff filed a return of service on Mr. Santana.

8. No further proceedings have been had in the Warren County Circuit Court.

DIVERSITY JURISDICTION EXISTS

9. This is a civil action that falls within the Court's original jurisdiction under 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

10. Plaintiff Shemiah Howard is a citizen of the State of Illinois.

11. Defendant Marcos A. Jimenez Santana is a citizen of the State of New Jersey.

12. Defendant New Prime, Inc. is a Nebraska corporation with its principal place of business in Missouri.

13. Because New Prime, Inc. is neither incorporated in Indiana nor has its principal place of business in Indiana, it is not a citizen of the State of Indiana for purposes of diversity jurisdiction.

14. There is complete diversity of citizenship between the parties named in this case.

15. Plaintiff's First Amended Complaint for Damages does not demand a specific sum of monetary damages. The State of Indiana does not permit a demand for a specific sum or permit recovery of damages in excess of the amount demanded. Therefore, this Notice of Removal states

that the monetary value of the amount in controversy exceeds \$75,000, exclusive of interest and costs, based upon the following:

- a. Plaintiff alleges she has sustained permanent injuries resulting from the incident alleged in the Complaint. (Amended Compl. ¶ 8).
- b. Plaintiff claims she has incurred medical bills for the treatment of her injuries directly resulting from this collision, as well as lost wages. (Amended Compl. ¶¶ 9-10).
- c. Plaintiff claims she has experienced physical pain and mental pain and suffering, property damage including diminished value, and has lost the ability to perform usual activities, resulting in a diminished quality of life. (Compl. ¶ 11).
- d. Plaintiff's counsel is unwilling to stipulate that the amount in controversy is less than or equal to \$75,000, exclusive of interest and costs.

16. Based upon the injuries alleged and damages claimed by Plaintiff, she seeks recovery in excess of \$75,000 exclusive of interest and costs, the value to Plaintiff of the relief sought in the First Amended Complaint exceeds \$75,000 exclusive of interest and costs, and/or the amount in controversy exceeds \$75,000 exclusive of interest and costs.

17. Therefore, this state court action is properly removed to this Court in accordance with 28 U.S.C. §§ 1441 and 1446 because: (1) this action is a civil action pending within the jurisdiction of the United States District Court for the Northern District of Indiana, Lafayette Division; (2) this action is between citizens of different States; (3) the amount in controversy exceeds \$75,000 exclusive of interest and costs.

STATUTORY REQUIREMENTS

18. Pursuant to 28 U.S.C. § 1446(a), a copy of the entire state court file is attached and includes all pleadings served or filed in this action as of the date of this Notice of Removal.

19. A copy of this Notice of Removal has been filed in the Warren County Circuit Court and Plaintiff has been served with both this Notice of Removal and the Notice of Filing Notice of Removal.

WHEREFORE, MARCO A. JIMENEZ SANTANA and NEW PRIME, INC., by counsel, respectfully request that the above-entitled action be removed from the Warren County Circuit Court to the United States District Court for the Northern District of Indiana, Lafayette Division.

LEWIS WAGNER, LLP

By: s/Katherine S. Strawbridge
KATHERINE S. STRAWBRIDGE, #30123-49
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2021, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

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